

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD F. FISHER,

No. C 05-2774 CW (PR)

Plaintiff,

ORDER DISMISSING CLAIM AGAINST  
DOE DEFENDANT

v.

CITY OF PITTSBURG, et al.,

Defendants.

On September 24, 2008, the Court issued an "Order Granting in Part and Denying in Part Defendants' Motion for Summary Judgment and Referring Case to Pro Se Prisoner Settlement Program." Plaintiff was directed to file a motion naming the Doe Defendant, who was identified as the "police sergeant" involved in the April 1, 2005 incident, and adding him as a defendant in this action. The Court gave Plaintiff until October 24, 2008 to file his motion. Failure to do so would result in dismissal of the excessive force claim against this Doe Defendant without prejudice. The time to file the motion has passed, and Plaintiff has failed to do so. Accordingly,

IT IS HEREBY ORDERED that the excessive force claim against this Doe Defendant is dismissed without prejudice.

IT IS SO ORDERED.

Dated: 11/10/08

  
CLAUDIA WILKEN  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

FISHER,

Plaintiff,

v.

CITY OF PITTSBURG CALIFORNIA ET AL  
et al,

Defendant.

Case Number: CV05-02774 CW

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 10, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Timothy Patrick Murphy  
Owen Thomas Rooney  
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Richard F. Fisher T-83070  
140-1-49-L  
CA State Prison-Avenal  
P.O. Box 9  
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Dated: November 10, 2008

Richard W. Wieking, Clerk  
By: Sheilah Cahill, Deputy Clerk

United States District Court  
For the Northern District of California